

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

In re AbbVie Inc., et al.

)
) Case No. 14-cv-1748
) Honorable Matthew F. Kennelly
)

This document relates to all cases

DEFENDANTS' MOTION TO DISMISS COMPLAINTS

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendants AbbVie, Inc., Abbott Laboratories, Inc., Endo Pharmaceuticals Inc., Eli Lilly and Company and Lilly USA, LLC, and Auxilium Pharmaceuticals Inc. ("Defendants") respectfully move to dismiss thirty-nine (39) complaints filed by Plaintiffs in this consolidated action as identified by this Court in Pretrial Order No. 2. In support, Defendants state as follows:

1. On April 4, 2014, this Court ordered that Defendants file motions to dismiss as to the complaints identified below by June 4, 2014. (Dkt. No. 31.) Any response to complaints filed thereafter were deferred until after the Court rules on the June 4, 2014 motions to dismiss. (Pretrial Order No. 3, Dkt. No. 42.)
2. The complaints referenced by Pretrial Order No. 2 include the following:

| | | |
|---------------|----------------|----------------|
| 1. Aurecchia | 14. Humphries | 27. White |
| 2. Marino | 15. Dobbs | 28. Montgomery |
| 3. Myers | 16. Headley | 29. Ortiz |
| 4. Cripe | 17. Hughes | 30. DeLeon |
| 5. Johnson | 18. Jackson | 31. Dula |
| 6. Kelly Sr. | 19. Gordon, M. | 32. LaRoche |
| 7. Gibby | 20. Jones | 33. George |
| 8. Hardee | 21. King | 34. Lueck |
| 9. Lau | 22. Lewis | 35. Emmons |
| 10. Bartholic | 23. Saylor | 36. Darby |
| 11. O'Donnell | 24. Cataudella | 37. Parker |
| 12. Blades | 25. Bailey | 38. DeForest |
| 13. Carpenter | 26. Gordon, J. | 39. Covey |

3. This Court should dismiss the complaints listed above under Rule 12(b)(6) because (i) the complaints uniformly fail to sufficiently allege causation; (ii) claims based on an alleged failure to warn fail as a matter of law; (iii) the fraud-based claims fail to meet the requirements of Rule 9(b); and (iv) many of the causes of action in the complaints fail under the state laws that govern them—the laws of each Plaintiff’s home state. These points are explained in detail in the accompanying memorandum of law.

WHEREFORE, for the reasons set forth above and in the memorandum of law accompanying this motion, Defendants respectfully request that the Court dismiss with prejudice the complaints filed by the Plaintiffs listed above in their entirety.

Dated: June 4, 2013

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Scott Ahmad, hereby certify that on June 4, 2014, the foregoing document was filed via the Court's CM/ECF system, which will automatically serve and send email notification of such filing to all registered attorneys of record.

/s/ Scott Ahmad